

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 519 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.DAVE and
MR.JUSTICE Y.B.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?
(No. 1 to 5 NO)
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CHANDRAVATI C SHAH

Versus

STATE OF GUJARAT

Appearance:

PARTY-IN-PERSON for Petitioner
MR. S.R. DIVETIA, LD.PUBLIC PROSECUTOR for Respondent
No. 1

CORAM : MR.JUSTICE S.D.DAVE and
MR.JUSTICE Y.B.BHATT

Date of decision: 17/06/97

ORAL JUDGEMENT

PER: Dave,J

The present Habeas Corpus Petition requires to be disposed off in view of the facts & circumstances under

which the same arises.

Mother Chandravati Shah has approached this Court by way of the present petition, saying that the custody of minor daughter Rita Shah should be with her. It should be recalled that, Rita Shah, the daughter of the petitioner happens to be a prosecution witness in a criminal case. We are being informed that the criminal case is over and the accused is convicted and is behind the bars. The capacity therefore of Rita Shah could be said to be a prosecution witness in a criminal case, which is already over. It is indeed true that at one juncture Rita Shah had shown her desire to stay at Nari Vikas Gruh. Under the orders of the Court she was permitted to spend some time with the mother petitioner during summer vacation. She is before us. On the inquiry, she makes a categorical and positive statement that, she would like to be in the company of the petitioner mother.

An apprehension was being expressed by the Ld. Govt. Counsel Mr. Divetia saying that, any arrangement which we would be making should not come in the way of the prosecution of the study of the minor. The petitioner makes a statement that necessary arrangement for the education of the minor shall be made.

When it appears very clearly that Rita the minor wants to be in the company of the mother, we feel that the only just and proper order would be to direct that she would be free to stay with her mother-the petitioner. We order accordingly.

Any how, looking to the facts & circumstances of the case, we are of the opinion that, after a period of about six months some of the officers or the workers of the Nari Vikas Gruh at Wadhvan shall make a surprise visit to the house of the petitioner where the minor resides so as to ascertain everything in connection with her well being. We also direct the petitioner mother to see that the girl is duly admitted in the school without waste of any term and that, she shall be submitting a report to this effect, both to Nari Vikas Gruh, Wadhvan and the Registrar of this Court, saying that the minor has been admitted in a particular school. We have also explained to minor Rita Shah that in case of any difficulty, she can send a communication either to the Registrar of this Court or Nari Vikas Grush, Wadhvan.

With these orders, the present petition is disposed off. Notice stands discharged.

/vgn.